In the Supreme Court of the United States

OCTOBER TERM, 1960

No. 10, Original

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA

ON MOTION FOR JUDGMENT ON AMENDED COMPLAINT

DECREE PROPOSED BY THE UNITED STATES

This cause having come on to be heard on the motion of the plaintiff for judgment and to dismiss the cross-bill of the State of Alabama, and having been argued by counsel, and this Court having stated its conclusions in its opinions announced on May 31, 1960, 363 U.S. 1, it is ordered, adjudged and decreed as follows:

1. As against the respective defendant States, the United States is entitled to all the lands, minerals and other natural resources underlying the Gulf of Mexico more than three geographic miles seaward from the coast lines of Louisiana, Mississippi and Alabama, and more than three leagues seaward from the coast lines of Texas and Florida, and extending seaward to the edge of the Continental Shelf. None of the States

of Louisiana, Texas, Mississippi, Alabama or Florida is entitled to any interest in such lands, minerals or resources, and each of said States, their privies, assigns, lessees and other persons claiming under any of them are hereby enjoined from interfering with the rights of the United States in such lands, minerals and resources. As used in this decree, the term "coast line" means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters.

2. As against the United States, the defendant States are respectively entitled to all the lands, minerals and other natural resources underlying the Gulf of Mexico, extending seaward from their coast lines for a distance of three leagues in the case of Texas and Florida and three geographic miles in the case of Louisiana, Mississippi and Alabama, and the United States is not entitled, as against any of such States, to any interest in such lands, minerals or resources, with the exceptions provided by Section 5 of the Submerged Lands Act, 43 U.S.C. 1313.

3. Whenever the location of the coast line of any of the defendant States shall be agreed upon or determined, either in whole or in part, such State shall thereupon promptly render to the United States a true, full, accurate and appropriate account of any and all sums of money derived by such State since June 5, 1950, either by sale, leasing, licensing, exploitation or otherwise from or on account of any of the lands or resources described in paragraph 1 hereof which lie opposite to such coast line or portion

thereof so agreed upon or determined, and shall promptly pay to the United States a sum equal to such amounts so derived by said State; provided, however, that a State may withhold payment of a sum equal to any amount due or claimed to be due to the State from the United States under Section 3(b)(3) of the Submerged Lands Act, 43 U.S.C. 1311(b)(3) until the amount so due to the State shall have been agreed upon or determined and paid to the State or offset against payments due from the State to the United States.

4. The cross-bill of the State of Alabama is dismissed.

5. All motions to take depositions and present evidence are denied without prejudice to their renewal in such further proceedings as may be had in connection with matters left open by this decree.

6. The motion of the State of Texas for severance is dismissed.

7. The motion of the State of Louisiana to transfer the case to a district court is denied.

8. Jurisdiction is reserved by this Court to entertain such further proceedings, enter such orders and issue such writs as may from time to time be deemed necessary or advisable to give proper force and effect to this decree.

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MEMORANDUM IN SUPPORT OF PROPOSED DECREE

In accordance with the Court's suggestion that the parties try to agree on a form of decree, we mailed a proposed draft to the Attorneys General of the five defendant States on July 25, 1960. Following suggestions received from them, as explained below, we prepared a second draft which we submitted to the defendants on September 20, 1960. It was approved without change by the Attorneys General of Mississippi, Alabama and Florida; the Attorney General of Texas requested only the substitution of two words in paragraph 3. It has been approved by the Attorney General of Louisiana subject to two objections discussed below. The proposed decree submit-

ted herewith is in the form of our second draft, modified by the substitution requested by the Attorney General of Texas. As that substitution, also explained below, is intended only to obviate a possible ambiguity and not to make any substantive change, we have not considered it necessary to submit this third draft to the other defendants.

In the proposed decree we have sought to embody exactly the provisions indicated by the Court in its opinions, particularly as set forth in its conclusions, 363 U.S. 1, 83–84.

Paragraph 1 defines the rights of the United States as against the several defendants and persons claiming under them, substantially in the terms of the Court's statement of its conclusions. At the suggestion of the Attorney General of Alabama, concurred in by the Attorneys General of Texas, Mississippi and Florida, there has been added, to avoid any possible doubt, a specific definition of the term "coast line" in the precise terms by which it is defined in Section 2(c) of the Submerged Lands Act, 43 U.S.C. 1301(c).

Paragraph 2 defines the rights of the several defendants against the United States, again substantially in the Court's own terms, but excepting those rights reserved to the United States by Section 5 of the Submerged Lands Act, 43 U.S.C. 1313. Those exceptions were not discussed by the parties or by the Court, but the propriety of excluding them from this paragraph seems plain. In effect, this proceeding is one to define the rights relinquished by the Sub-

merged Lands Act. Cf. 363 U.S. at 6–7. Rights excepted from the statutory relinquishment should be correspondingly excepted from the rights to be accorded to the defendant States by the decree. No defendant has objected to this exception.

Paragraph 3 provides for an accounting. The Attorney General of Florida suggested that this should be made dependent on prior determination of the applicable coast line, and we have accepted this as a necessary qualification. We have provided, however, that an accounting need not await determination of a State's entire coast line, but that upon partial determination of the coast line there shall be a corresponding partial accounting, allowing withholding of any amount that may be necessary as an offset for cross-claims under the Submerged Lands Act, dependent on portions of the coast line still undetermined. In our second draft, the first sentence of this paragraph described the areas so to be accounted for as those described in paragraph 1 which lie "seaward from" such coast line or portion thereof so agreed upon or determined. At the suggestion of the Attorney General of Texas, "opposite to" has been substituted for "seaward from." This is the only difference between the decree now proposed and our second draft which was approved by the Attorneys General of Mississippi, Alabama and Florida, and, with the exceptions noted below, by the Attorney General of Louisiana.

By letter of November 2, 1960, the Attorney General of Louisiana has made two objections to the second

draft of our proposed decree, both apparently relating to paragraph 3. The first is as follows:

> (1) The decree should order that funds which are now held in escrow should be retained by the Treasurer of the United States until the exact location of Louisiana's coast line has been determined.

We cannot agree with this suggestion. The agreement between the United States and the State of Louisiana, executed and filed with the Court on October 12, 1956, pursuant to the Court's order of June 11, 1956 (351 U.S. 978), provides that money derived from disputed offshore areas shall be held impounded until title to the disputed areas is settled, and that when title to any area is settled, the agreement shall terminate as to such area and the impounded money derived from it shall be paid to the party entitled thereto. We are not aware of any disagreement between the parties as to the meaning or effect of this agreement, and no such question has been presented to the Court. In these circumstances it seems to us neither necessary nor appropriate for the decree to concern itself with the operation of the agreement.

The second objection of the Attorney General of Louisiana is as follows:

> (2) The requirement that Louisiana make payment to the United States should be deleted from the decree you have proposed. Since the original complaint merely calls for an accounting, a money judgment at this time is not appropriate.

We submit that this objection also is unsound. The prayer of the amended complaint asks that the defendants be required "to account for all sums of

money derived" by them from the area belonging to the United States. Amended Complaint 19. To "account for" does not mean merely to render a statement of accounts; it also includes payment of the balance shown to be due. *Hamilton Nat. Bank* v. *United States,* 99 F. 2d 570, 573 (C.A. 6), certiorari denied, 306 U.S. 653; *Hale County, Tex.* v. *American Indemnity Co.,* 63 F. 2d 275 (C.A. 5), rehearing denied, 65 F. 2d 1017, certiorari denied, 290 U.S. 697; *United States* v. *Rehwald,* 44 F. 2d 663 (S.D. Cal.); *Moody* v. *Pacific Surety Co.,* 41 Cal. App. 287, 182 Pac. 802 (1919); *Mayo* v. *Lent,* 45 So. 2d 879, 881 (Fla. 1950); *Mayo* v. *Market Fruit Co. of Sanford,* 40 So. 2d 555, 557–558 (Fla. 1949); *Cushman* v. *Richards,* 100 Mass. 232, 233 (1868); *State ex rel. McKown* v. *Williams,* 77 Mo. 463, 471 (1883); *Seaman* v. *Duryea,* 11 N.Y. 324, 328–330 (1854); *Texas Real Estate Commission* v. *Bentley,* 253 S.W. 2d 325, 328 (Tex. Civ. App. 1952); *Spencer* v. *Pringle,* 51 Wyo. 352, 360–364 (1937). See 1 C.J.S. 576, s.v. "Account." A requirement that the defendants pay any amount shown to be due to the United States is clearly within the scope of this proceeding and an appropriate part of the decree.

The remaining paragraphs correspond to specific conclusions stated by the Court. 363 U.S. at 83–84. They have been accepted by all defendants.

In our view, the decree now proposed by the United States correctly embodies the decision of the Court.

Respectfully submitted.

J. LEE RANKIN,
Solicitor General.

NOVEMBER 1960.

U.S. GOVERNMENT PRINTING OFFICE: 1960